

**JUDGE MARRERO**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FRATELLI COSULICH BUNKERS (HK) LTD.,

Plaintiff,

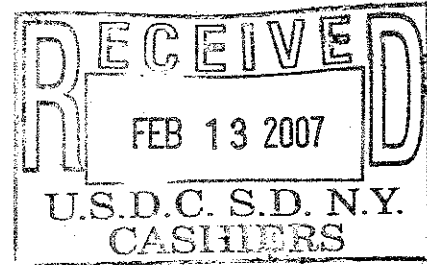
- against -

FAIR WIND SHIPPING CO. LTD.,

Defendant.  
-----X

**07 CV 995**

07 CV  
ECF CASE



**VERIFIED COMPLAINT**

Plaintiff, FRATELLI COSULICH BUNKERS (HK) LTD., (hereafter referred to as "Plaintiff"), by and through its attorneys, Tisdale & Lennon, LLC, as and for its Verified Complaint against the Defendant, FAIR WIND SHIPPING CO. LTD., (hereafter referred to as "Defendant"), alleges, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 United States Code § 1333.
2. At all times material to this action, Plaintiff was, and still is, a foreign company duly organized and operating under the laws of China.
3. Upon information and belief, Defendant was, and still is, a foreign corporation, or other business entity, organized under, and existing by virtue of foreign law with a principal place of business at 15/F, Seaview Commercial Building, 21-24 Connaught Road West, Hong Kong.
4. Plaintiff was at all material times a seller of bunker fuels, *e.g.*, marine fuel oils, who sold fuel to Defendant pursuant to Plaintiff's standard sales contracts.

5. Defendant instructed Plaintiff to deliver bunker fuel to several vessels. Plaintiff performed its obligations under the contracts.

6. Despite due demand, Defendant has failed to pay several of Plaintiff's invoices that are enumerated on the attached Exhibit 1.

7. The principal amount due to Plaintiff on the above invoices is \$1,511,572.66 and the contractual interest on these unpaid invoices is \$27,928.34.

8. Additionally, Plaintiff is currently owed by Defendant \$134,075.74 for other past due invoices, ones that Defendant eventually paid, but for which Defendant failed to pay accrued interest as provided for by the parties contract.

9. Specifically, despite due demand, Defendant has also failed to pay interest, as provided by the parties' contracts, for Plaintiff's invoices that are enumerated on the attached Exhibit 2.

10. As a result of Defendant's breach of the contracts, Plaintiff has sustained damages in the total principal amount of \$1,673,576.60 exclusive of prejudgment interest, litigation costs and attorneys' fees.

11. Pursuant to the contracts, all disputes arising thereunder are to be submitted to the Jurisdiction of the Hong Kong Courts with the law of the territory of Hong Kong to apply.

12. The Plaintiff will soon commence an action for damages against Defendant in Hong Kong.

13. Interest, costs and attorneys' fees are routinely awarded to the prevailing party by the Hong Kong courts. Plaintiff expects to recover the following amounts:

- |    |  |                |
|----|--|----------------|
| A. | Principal Claim:   | \$1,673,576.60 |
| B. | Estimated Interest calculated at the rate of 6.5% for three years: | \$326,347.41   |

C.	Estimated Attorneys' Fees and costs of the litigation:	\$150,000.00
<b>Total</b>		<b>\$2,149,924.00</b>

14. The Defendant cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but, upon information and belief, Defendant has, or will have during the pendency of this action, assets within this District and subject to the jurisdiction of this Court, held in the hands of garnishees including, but not limited to, ABN Amro, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA Bank, J.P. Morgan Chase, Standard Chartered Bank, Nanyang Commercial Bank and/or Wachovia Bank N.A., which are believed to be due and owing to the Defendant.

15. The Plaintiff seeks an order from this court directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching, *inter alia*, any assets of the Defendant held by the aforesaid garnishee for the purpose of obtaining personal jurisdiction over the Defendant and to secure the Plaintiff's claim as described above.

**WHEREFORE**, Plaintiff prays:

A. That process in due form of law issue against the Defendant, citing it to appear and answer under oath all and singular the matters alleged in the Complaint;

B. That since the Defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an Order directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching all goods, chattels, credits, letters of credit, bills of lading, effects, debts and monies,

tangible or intangible, or any other funds held by any garnishee, including, but not limited to, ABN Amro, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA Bank, J.P. Morgan Chase, Standard Chartered Bank, Nanyang Commercial Bank and/or Wachovia Bank N.A., which are due and owing to the Defendants, in the amount of **\$2,149,924.00** calculated to date to secure the Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Supplemental Admiralty Rule B answer the matters alleged in the Complaint;

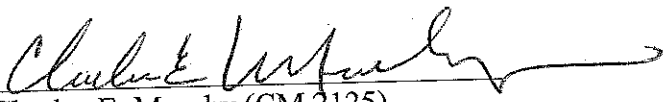
C. An Order recognizing and confirming any final Hong Kong judgment award in Plaintiff's favor;

D. That this Court retain jurisdiction over this matter through the entry of any judgment or award associated with any of the claims currently pending, or which may be initiated in the future, including any appeals thereof; and

E. That the Plaintiff has such other, further and different relief as the Court may deem just and proper.

Dated: New York, New York  
February 12, 2007

The Plaintiff,  
FRATELLI COSULICH BUNKERS (HK) LTD.,

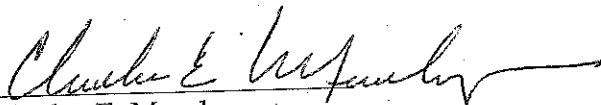
By:   
Charles E. Murphy (CM 2125)  
TISDALE & LENNON, LLC  
11 West 42nd Street, Suite 900  
New York, NY 10036  
(212) 354-0025 – phone  
(212) 869-0067 – fax  
[cmurphy@tisdale-lennon.com](mailto:cmurphy@tisdale-lennon.com)

ATTORNEY'S VERIFICATION

State of Connecticut )  
 ) ss.: Town of Southport  
County of Fairfield. )

1. My name is Charles E. Murphy.
2. I am over 18 years of age, of sound mind, capable of making this Verification, and fully competent to testify to all matters stated herein.
3. I am an attorney in the firm of Tisdale & Lennon, LLC, attorneys for the Plaintiff.
4. I have read the foregoing Verified Complaint and know the contents thereof and believe the same to be true and accurate to the best of my knowledge, information and belief.
5. The reason why this Verification is being made by the deponent and not by the Plaintiff is that the Plaintiff is a business organization with no officers or directors now within this District.
6. The source of my knowledge and the grounds for my belief are the statements made, and the documents and information received from, the Plaintiff and agents and/or representatives of the Plaintiff.
7. I am authorized to make this Verification on behalf of the Plaintiff.

Dated: Southport, Connecticut  
February 12, 2007

  
Charles E. Murphy

## **Exhibit 1**

INTEREST RATE 1.50%

DUE DATE	OUR REF	VSL	INV AMT	DELAY UPTO REPORT DATE	INTEREST
08/12/06	18565	LAN HUA XIANG	78,805.00	54	2,127.74
10/12/06	18564	SYLVETTE	150,450.00	52	3,911.70
13/12/06	18585	ASIA STAR	114,018.56	49	2,793.45
15/12/06	18589	MARINA	97,800.00	47	2,298.30
18/12/06	18633	HAO GUO	48,956.00	44	1,077.03
21/12/06	18646	CAPE COOK	155,405.15	41	3,185.81
23/12/06	18651	ASIA STAR	36,780.00	39	717.21
25/12/06	18638	XIANG HENG	82,870.29	37	1,533.10
31/12/06	18699	MAGNA	94,439.27	31	1,463.81
01/01/07	18704	MARINA	30,700.00	30	460.50
01/01/07	18720	YM MAWEI	128,650.00	30	1,929.75
02/01/07	18733	SYLVETTE	158,231.19	29	2,294.35
04/01/07	18713	MARINA	97,249.54	27	1,312.87
04/01/07	18740	HAO GUO	65,110.00	27	878.99
05/01/07	18739	ASIA STAR	95,707.66	26	1,244.20
07/01/07	18738	MAGNA	36,780.00	24	441.36
18/01/07	18790	XIANG HENG	39,720.00	13	258.18

TOTAL

1,511,672.66

27,928.34

## **Exhibit 2**



REPORT LATE PAYMENT INTEREST REPORT (PAID INVOICE)  
 CUSTOMER FAIR WIND SHIPPING CO LTD  
 PERIOD 1/1/05 - 31/12/06

INTEREST RATE 1.50%

YEAR	DUE DATE	DATE RECD	OUR REF	VSL	INV AMT	DELAY	INTEREST
2005	23/02/05	14/03/05	13801	XIANG TU	49,800.00	19	473.10
2005	03/03/05	21/03/05	13866	XIANG HENG	47,710.00	18	429.39
2005	04/03/05	24/03/05	13912	HAO GUO	63,020.00	20	630.20
2005	11/03/05	01/04/05	13965	LAN HUA XIANG	53,880.00	21	565.74
2005	16/03/05	11/04/05	13996	XIANG TU	40,240.00	26	523.12
2005	05/04/05	20/04/05	14126	LAN HUA XIANG	58,210.00	15	436.58
2005	07/04/05	26/04/05	14127	XIANG HENG	51,940.00	19	493.43
2005	08/04/05	03/05/05	14160	HAO GUO	64,030.00	25	800.38
2005	15/04/05	10/05/05	14208	XIANG TU	52,305.00	25	653.81
2005	27/04/05	24/05/05	14298	LAN HUA XIANG	59,030.00	27	796.91
2005	04/05/05	24/05/05	14371	XIANG HENG	67,828.00	20	678.28
2005	05/05/05	26/05/05	14370	XIANG TU	53,880.00	21	565.74
2005	06/05/05	31/05/05	14386	HAO GUO	79,759.22	25	996.99
2005	18/05/05	07/06/05	14484	LAN HUA XIANG	65,150.00	20	651.50
2005	25/05/05	08/06/05	14552	XIANG HENG	54,970.00	14	384.79
2005	01/06/05	22/06/05	14614	XIANG TU	64,340.00	21	675.57
2005	02/06/05	27/06/05	14638	HAO GUO	77,010.00	25	962.63
2005	08/06/05	30/06/05	14676	LAN HUA XIANG	63,550.00	22	699.05
2005	16/06/05	12/07/05	14736	XIANG HENG	450.00	26	5.85
2005	19/06/05	12/07/05	14758	XIANG HENG	40,740.00	23	468.51
2005	22/06/05	18/07/05	14778	XIANG TU	43,740.00	26	568.62
2005	22/06/05	19/07/05	14799	HAO GUO	55,625.00	27	750.94
2005	28/06/05	21/07/05	14838	XIANG HENG	14,700.00	23	169.05
2005	29/06/05	26/07/05	14825	LAN HUA XIANG	60,310.00	27	814.19
2005	10/07/05	29/07/05	14896	XIANG HENG	29,065.00	19	276.12
2005	17/07/05	02/08/05	14980	HAO GUO	39,285.00	16	314.28
2005	18/07/05	04/08/05	14951	XIANG TU	53,525.00	17	454.96
2005	19/07/05	09/08/05	14981	XIANG HENG	37,830.00	21	397.22
2005	24/07/05	25/08/05	14982	LAN HUA XIANG	65,448.00	32	1,047.17
2005	25/07/05	12/08/05	15131	HAO GUO	26,450.00	18	238.05
2005	03/08/05	01/09/05	15136	HAO GUO	29,900.00	29	433.55
2005	08/08/05	06/09/05	15101	XIANG TU	55,165.00	29	800.18
2005	18/08/05	07/09/05	15216	LAN HUA XIANG	52,945.00	20	529.45
2005	25/08/05	14/09/05	15249	HAO GUO	79,050.00	20	790.50
2005	29/08/05	21/09/05	15288	XIANG TU	29,600.00	23	340.40
2005	04/09/05	30/09/05	15159	XIANG HENG	81,480.00	26	1,059.37
2005	11/09/05	04/10/05	15324	XIANG TU	51,525.00	23	592.54
2005	11/09/05	10/10/05	15362	LAN HUA XIANG	91,900.00	29	1,332.55
2005	18/09/05	12/10/05	15406	HAO GUO	86,805.00	24	1,041.66
2005	25/09/05	20/10/05	15466	XIANG HENG	64,950.00	25	811.88
2005	02/10/05	25/10/05	15515	XIANG TU	62,355.00	23	717.08
2005	10/10/05	31/10/05	15606	LAN HUA XIANG	71,730.00	21	753.17
2005	11/10/05	01/11/05	15607	HAO GUO	37,100.00	21	389.55
2005	16/10/05	10/11/05	15675	XIANG HENG	42,960.00	25	537.00
2005	23/10/05	14/11/05	15710	XIANG TU	40,480.00	22	445.28
2005	24/10/05	16/11/05	15682	XIANG HENG	26,760.00	23	307.74
2005	31/10/05	23/11/05	15777	HAO GUO	81,050.00	23	932.08
2005	31/10/05	28/11/05	15797	LAN HUA XIANG	42,289.09	28	592.05
2005	06/11/05	30/11/05	15779	XIANG HENG	40,590.00	24	487.08
2005	07/11/05	01/12/05	15798	LAN HUA XIANG	49,815.00	24	597.78
2005	13/11/05	06/12/05	15934	JIN MAN HE	69,225.00	23	796.09
2005	20/11/05	13/12/05	15982	HAO GUO	44,400.00	23	510.60
2005	27/11/05	20/12/05	15961	LAN HUA XIANG	44,400.00	23	510.60
2005	28/11/05	22/12/05	16026	HAO GUO	27,435.00	24	329.22
2005	29/11/05	28/12/05	16025	XIANG HENG	75,015.00	29	1,087.72
2005	30/11/05	30/12/05	16051	JIN MAN HE	55,626.00	30	834.39
2005	05/12/05	03/01/06	16027	LAN HUA XIANG	30,450.00	29	441.53
2005	14/12/05	12/01/06	16160	LAN HUA XIANG	63,050.00	29	914.23
2005	15/12/05	16/01/06	16161	HAO GUO	66,400.00	32	1,062.40
2005	21/12/05	18/01/06	16207	JIN MAN HE	70,900.00	28	992.60
2005	22/12/05	23/01/06	16208	XIANG HENG	62,485.00	32	999.76
2005 Total							38,892.14
2006	05/01/06	26/01/06	16326	HAO GUO	66,070.00	20	660.70
2006	13/01/06	10/02/06	16393	XIANG HENG	35,200.00	28	492.80
2006	14/01/06	13/02/06	16384	JIN MAN HE	81,465.00	30	1,221.98

YEAR	DUE DATE	DATE RECD	OUR REF	VSL	INV AMT	DELAY	INTEREST
2006	17/01/06	16/02/06	16421	LAN HUA XIANG	93,330.00	30	1,399.95
2006	25/01/06	20/02/06	16463	XIANG HENG	29,800.00	26	387.40
2006	29/01/06	23/02/06	16517	HAO GUO	80,070.00	25	1,000.88
2006	31/01/06	28/02/06	16516	JIN MAN HE	58,290.00	28	816.06
2006	06/02/06	07/03/06	16577	XIANG HENG	50,625.00	29	734.06
2006	08/02/06	09/03/06	16602	LAN HUA XIANG	81,180.00	29	1,177.11
2006	14/02/06	13/03/06	16625	XIANG HENG	30,200.00	27	407.70
2006	19/02/06	15/03/06	16657	JIN MAN HE	72,899.40	24	874.79
2006	23/02/06	20/03/06	16724	HAO GUO	74,805.00	25	935.06
2006	27/02/06	22/03/06	16729	XIANG HENG	38,950.00	23	447.93
2006	04/03/06	27/03/06	16766	LAN HUA XIANG	53,080.00	23	667.92
2006	07/03/06	30/03/06	16768	JIN MAN HE	53,405.00	23	614.16
2006	26/03/06	18/04/06	16913	JIN MAN HE	53,235.00	23	612.20
2006	26/03/06	18/04/06	16915	HAO GUO	47,663.15	23	548.13
2006	27/03/06	18/04/06	16914	XIANG HENG	54,790.00	22	602.69
2006	03/04/06	19/04/06	16991	LAN HUA XIANG	35,880.00	16	287.04
2006	11/04/06	27/04/06	17018	LAN HUA XIANG	14,960.00	16	119.68
2006	14/04/06	02/05/06	17057	HAO GUO	44,400.00	18	399.60
2006	16/04/06	04/05/06	17058	JIN MAN HE	88,222.50	18	794.00
2006	20/04/06	08/05/06	17084	LAN HUA XIANG	55,500.00	18	499.50
2006	23/04/06	10/05/06	17130	HAO GUO	41,810.00	17	355.39
2006	24/04/06	16/05/06	17085	XIANG HENG	98,760.00	22	1,086.58
2006	01/05/06	18/05/06	17179	LAN HUA XIANG	38,845.00	17	330.18
2006	07/05/06	19/05/06	17256	HAO GUO	45,240.00	12	271.44
2006	08/05/06	22/05/06	17247	JIN MAN HE	68,402.00	14	478.81
2006	10/05/06	23/05/06	17257	LAN HUA XIANG	41,470.00	13	269.56
2006	15/05/06	29/05/06	17310	XIANG HENG	38,700.00	14	270.90
2006	23/05/06	05/06/06	17343	XIANG HENG	32,750.00	13	212.88
2006	28/05/06	08/06/06	17385	JIN MAN HE	91,009.00	11	500.55
2006	01/06/06	12/06/06	17416	LAN HUA XIANG	99,105.00	11	545.08
2006	04/06/06	14/06/06	17450	HAO GUO	94,630.00	10	473.15
2006	05/06/06	20/06/06	17451	XIANG HENG	46,345.00	15	347.59
2006	19/06/06	03/07/06	17550	JIN MAN HE	86,786.00	14	607.50
2006	26/06/06	17/07/06	17610	LAN HUA XIANG	48,750.00	21	511.88
2006	27/06/06	18/07/06	17609	XIANG HENG	82,100.00	21	862.05
2006	02/07/06	18/07/06	17637	HAO GUO	46,800.00	16	374.40
2006	03/07/06	19/07/06	17650	LAN HUA XIANG	33,700.00	16	269.60
2006	09/07/06	24/07/06	17697	HAO GUO	40,980.00	15	307.35
2006	11/07/06	26/07/06	17698	JIN MAN HE	87,606.00	15	657.05
2006	17/07/06	31/07/06	17742	LAN HUA XIANG	52,820.00	14	370.44
2006	19/07/06	02/08/06	17741	XIANG HENG	49,140.00	14	343.98
2006	31/07/06	14/08/06	17810	XIANG HENG	34,450.00	14	241.15
2006	31/07/06	15/08/06	17808	HAO GUO	56,400.00	15	423.00
2006	07/08/06	23/08/06	17820	LAN HUA XIANG	82,970.00	16	663.76
2006	14/08/06	28/08/06	17863	XIANG HENG	53,900.00	14	377.30
2006	14/08/06	31/08/06	17862	JIN MAN HE	90,240.00	17	767.04
2006	14/08/06	04/09/06	17864	HAO GUO	41,580.00	21	436.59
2006	20/08/06	04/09/06	17925	HAO GUO	31,180.00	15	233.85
2006	27/08/06	20/09/06	17959	MARINA	74,400.00	24	892.80
2006	30/08/06	20/09/06	17945	XIANG HENG	65,655.00	21	689.38
2006	30/08/06	21/09/06	17957	LAN HUA XIANG	74,900.00	22	823.90
2006	31/08/06	29/09/06	17972	HAO GUO	56,720.00	29	822.44
2006	04/09/06	29/09/06	17992	JIN MAN HE	85,825.00	25	1,072.81
2006	10/09/06	16/10/06	18005	MARINA	99,990.00	36	1,799.82
2006	20/09/06	18/10/06	18070	XIANG HENG	65,910.00	28	922.74
2006	20/09/06	31/10/06	18062	SYLVETTE	215,830.08	41	4,424.52
2006	22/09/06	23/10/06	18083	JIN MAN HE	56,190.00	31	870.95
2006	22/09/06	06/11/06	18082	LAN HUA XIANG	79,845.00	45	1,796.51
2006	27/09/06	06/11/06	18084	MARINA	89,922.25	40	1,798.45
2006	01/10/06	06/11/06	18127	ASIA STAR	26,352.29	36	474.34
2006	04/10/06	14/11/06	18147	HAO GUO	7,760.00	41	159.08
2006	05/10/06	14/11/06	18143	ASIA STAR	142,824.28	40	2,856.49
2006	08/10/06	16/11/06	18170	MARINA	84,660.00	39	1,650.87
2006	12/10/06	16/11/06	18183	XIANG HENG	65,040.00	35	1,138.20
2006	12/10/06	21/11/06	18185	HAO GUO	88,230.00	40	1,764.60

CUSTOMER : FAIR WIND SHIPPING CO LTD

PERIOD 1/1/05 - 31/12/06

YEAR	DUE DATE	DATE RECD	OUR REF	VSL	INV AMT	DELAY	INTEREST
2006	13/10/06	05/12/06	18184	LAN HUA XIANG	88,771.00	53	2,352.43
2006	18/10/06	28/11/06	18219	SYLVETTE	232,724.50	41	4,770.85
2006	26/10/06	08/12/06	18268	MARINA	76,050.00	43	1,635.08
2006	26/10/06	28/12/06	18257	ASIA STAR	124,763.76	63	3,930.06
2006	02/11/06	21/12/06	18299	XIANG HENG	61,230.00	49	1,500.14
2006	02/11/06	29/12/06	18300	HAO GUO	77,660.00	57	2,213.31
2006	09/11/06	04/01/07	18358	LAN HUA XIANG	103,210.00	56	2,889.88
2006	10/11/06	04/01/07	18357	MARINA	93,350.00	55	2,567.13
2006	14/11/06	08/01/07	18413	ASIA STAR	137,354.66	55	3,777.25
2006	14/11/06	15/01/07	18414	SYLVETTE	201,750.00	62	6,254.26
2006	24/11/06	22/01/07	18457	XIANG HENG	39,810.00	59	1,174.40
2006	24/11/06	22/01/07	18466	MARINA	73,200.00	59	2,159.40
2006	25/11/06	22/01/07	18491	MAGNA	34,700.00	58	1,006.30
2006	01/12/06	22/01/07	18495	HAO GUO	61,490.00	52	1,598.74
2006	01/12/06	29/01/07	18496	MAGNA	173,090.00	59	5,106.16
2006 Total							95,183.61
Grand Total							134,075.74